

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Joseph Montopoli, Fire Chief/EMC, 954-797-1842

PREPARED BY: Julie Downey, Assistant Chief EMS 954-797-1189

SUBJECT: Resolution

AFFECTED DISTRICT: All

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, WAIVING FORMAL BIDDING AND AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR A THREE (3) YEAR AGREEMENT WITH ADVANCED DATA PROCESSING, INC. TO PROVIDE EMS BILLING SERVICES, WHICH INCLUDES A REDUCTION OF THE COLLECTION RATE OF ALL MONIES COLLECTED, EXCLUDING AMOUNTS COLLECTED FROM FLORIDA MEDICAID. (\$110,000).

REPORT IN BRIEF: The Town is in need of a company to provide EMS billing services. Advanced Data Processing, Inc. (ADPI) has been successfully providing these services to the Town since October, 1998. All fire rescue agencies in Broward County, with the exception of Pembroke Pines Fire Rescue use ADPI for EMS billing. ADPI has proven to be the most effective and efficient provider of these services. The agreement is for a period of three (3) year with options to extend the contract by mutual agreement of the parties for two periods of one additional year each at the end of the initial term. This also includes a reduction of the collection rate from six and three quarters (6.75%) to six and four tenths percent (6.40%), which will save the Town approximately \$5,000 - \$10,000 (depending on the amount of collections in a given year). The contract would commence June 1st, 2009 thru May 31st, 2012.

PREVIOUS ACTIONS: R-2007-249, R-2004-78, R-2008-118

CONCURRENCES:

FISCAL IMPACT: Yes

Has request been budgeted? Yes

If yes, expected cost: \$100,000

Account name and number: Contractual Services EMS – 001-0602-522-0306

If no, amount needed: \$

What account name and number will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Motion to approve resolution

Attachment(s): Resolution, Fire Dept Memo, ADPI Contract

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, WAIVING FORMAL BIDDING AND AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR A THREE (3) YEAR AGREEMENT WITH ADVANCED DATA PROCESSING, INC. TO PROVIDE EMS BILLING SERVICES, WHICH INCLUDES A REDUCTION OF THE COLLECTION RATE OF ALL MONIES COLLECTED, EXCLUDING AMOUNTS COLLECTED FROM FLORIDA MEDICAID. (\$110,000).

WHEREAS, the Town is in need of a company to provide EMS billing services;
and

WHEREAS, Advanced Data Processing, Inc. (ADPI) has unique expertise in this area and has been providing satisfactory services to the Town for several years; and

WHEREAS, the Town Council authorizes the Mayor to enter into an agreement with ADPI for EMS billing services for three (3) year commencing June 1, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The Town Council of the Town of Davie hereby waives formal bidding and authorizes the Mayor to enter into an agreement with Advanced Data Processing, Inc. for a period of three (3) years commencing June 1, 2009 through May 31, 2012 and with two periods of one additional year each at the end of the initial term for EMS billing services which is attached hereto and identified as Attachment "A".

SECTION 2. The Town Council authorizes the expenditures from the EMS Contractual Services account, 001-0602-522-0306.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2009

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2009



**TOWN OF DAVIE
INTEROFFICE MEMORANDUM
FIRE RESCUE DEPARTMENT**

Date: March 31, 2009
To: M. Malvasio, Deputy Chief
From: J. Downey, Assistant Chief *JD*
Through:
Subject: ADPI contract
Attachment: X Yes No

Chief *JD*

Our current EMS billing contract with Advanced Data Processing Inc. (ADPI) is due to expire on May 31, 2009.

All fire rescue agencies in Broward County have been polled and it has been discovered that all agencies except Pembroke Pines Fire Rescue (self bill) uses ADPI for the EMS billing.

Attached is the quote from ADPI to continue their billing service. I recommend staying with ADPI and utilizing Option #4 which is a new 3 year contract paying 6.40% of non-medicaid collections, \$11.25/Medicaid account and \$0.75 for HIPAA notice mailing. Davie Fire Rescue is currently paying 6.75% for ADPI services.

I concur.
J. Downey
04-01-09
OK - Malvasio 4/1/09

**AGREEMENT BETWEEN
TOWN OF DAVIE
AND
ADVANCED DATA PROCESSING, INC. (dba INTERMEDIX-ADPI)
FOR RESCUE AMBULANCE BILLING AND RELATED PROFESSIONAL SERVICES**

THIS AGREEMENT ("AGREEMENT") is made and entered into this ____ day of May, 2009 by and between TOWN OF DAVIE, a municipal corporation of the State of Florida, with principal offices located at 6591 Orange Drive, Davie, Florida 33314 ("TOWN") and Advanced Data Processing, Inc.(dba Intermedix-ADPI), a Delaware Corporation with principal offices located at 6451 North Federal Highway, Suite 1002, Fort Lauderdale, Florida 33308 ("CONTRACTOR").

RECITALS

WHEREAS, TOWN provides emergency medical services, including ambulance transport ("EMS"), for residents and visitors in its jurisdiction, and charges for such services; and

WHEREAS, CONTRACTOR provides billing, collection and related consulting services and equipment ("Contractor Services") for municipalities and other providers of EMS; and

WHEREAS, the parties hereto now wish to enter into an agreement, pursuant to which CONTRACTOR will render Contractor Services as hereinafter provided;

AGREEMENT

NOW THEREFORE, the parties hereto agree as follows:

1. **ENGAGEMENT OF CONTRACTOR.** During the term of this Agreement, except for accounts referred to a collection agency as provided herein, CONTRACTOR shall be exclusively responsible for the billing and collection of all charges and fees resulting from the delivery of EMS by TOWN, including but not limited to all charges and fees to private insurers, Medicare, Medicaid, other governmental programs, individual patients and their responsible parties (collectively, "Payors").
2. **SCOPE OF SERVICES.** CONTRACTOR shall perform and carry out Contractor Services as specifically described in "EXHIBIT A – Scope of Services", which is attached hereto and incorporated herein by this reference. TOWN reserves the right to request changes in the Scope of Services within CONTRACTOR's capabilities, which changes shall be implemented upon mutual written agreement of the parties specifying such changes and any change in compensation attributable thereto.
3. **TERM.** This AGREEMENT shall be effective for a three-year period, commencing June 1, 2009 through May 31, 2012 unless terminated as provided in Section 12 below. This AGREEMENT shall renew for two periods of one additional year each at the end of the initial term unless terminated as provided in Section 12 below. All terms and

conditions hereof shall remain in full force and effect during any renewal term unless this Agreement is amended in writing.

4. COMPENSATION AND METHOD OF PAYMENT.

4.01. The CONTRACTOR shall be paid by TOWN a monthly amount representing fees for CONTRACTOR's Services computed as follows:

(a) Six and forty one-hundredths percent (6.40%) of all non-Medicaid monies collected by CONTRACTOR for EMS provided by TOWN ("Collections"), plus

(b) Eleven dollars and twenty-five cents (\$11.25) for each Medicaid account billed by CONTRACTOR for EMS provided by TOWN, whether or not such account is ultimately paid by Medicaid, plus

(c) Seventy-five one-hundredths dollar (\$.75) per HIPAA-compliant Notice of Privacy Practices sent to patients as more specifically described in the Scope of Services (Exhibit A)

Contractor reserves the right to increase these fees upon thirty (30) days written notice to TOWN if postage is increased by the United States Postal Service, but only in an amount necessary to cover additional postage costs. Such increase shall not require agreement or consent by TOWN.

4.02. CONTRACTOR shall submit the monthly invoices for fees for Contractor Services to Town of Davie 6591 Orange Drive, Davie, Florida 33314 ATTN: Finance Department. TOWN shall issue a check for the amount invoiced, less any disputed amounts, within forty-five (45) days of receipt of such invoice. In the event TOWN disputes any part of the invoiced amounts, such dispute shall be raised in writing to CONTRACTOR within such forty-five (45) day period or the invoice shall conclusively be deemed to be accurate and correct. CONTRACTOR shall respond to any such notice of dispute within thirty (30) days of receipt thereof. Any overdue amounts which are not the subject of a good faith notice of dispute shall accrue interest at the rate of twelve percent (12%) per annum.

4.03. If the Contractor Services being provided under this Agreement include CONTRACTOR collecting on behalf of TOWN the charges and fees owed by third parties (e.g. insurers, Medicare, Medicaid, and other governmental programs, individual patients and their responsible parties) with respect to the delivery of EMS by TOWN, then all amounts so collected by CONTRACTOR shall be deposited into a lockbox established by TOWN. TOWN agrees that it will be solely responsible for the cost of any and all lock-box and/or remote deposit services. TOWN, should it elect to participate in any credit card acceptance program, agrees to assume and be responsible for all costs associated with such program. All other costs incurred by CONTRACTOR in the performance of Contractor Services as specified herein (including, but not limited to postage, materials, communications and phone costs and other operating costs) shall be assumed by CONTRACTOR.

5. SYSTEM ACCESS AND SUPPORT.

5.01 Access to IMX Billing System. CONTRACTOR's access to the hosted IMX billing system shall be subject to and in accordance with the terms of "EXHIBIT B - Web Hosting Agreement".

5.02 Customer Support and Training. Customer support and training will be provided subject to and in accordance with the terms of "EXHIBIT A – Scope of Services".

6. INDEPENDENT CONTRACTORS. CONTRACTOR is an independent contractor of TOWN and not an employee or agent of TOWN with the following exception:

To the extent necessary to fulfill its billing and collection efforts under this AGREEMENT, CONTRACTOR is authorized to sign *in an administrative capacity* for TOWN the following types of standard forms and correspondence only: probate filings; letters to patients or their representatives verifying that an account is paid in full; forms verifying the tax-exempt status of TOWN; and insurance filings and related forms. The CONTRACTOR has no authority to sign any document that imposes any additional liability on TOWN.

CONTRACTOR shall retain full control over the employment, direction, compensation and discharge of all persons assisting in the performance of Contractor Services. CONTRACTOR shall be fully responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding tax and all other laws and regulations governing such matters. CONTRACTOR shall be responsible for its own acts and those of its agents and employees during the term of this AGREEMENT.

7. INDEMNIFICATION. CONTRACTOR shall indemnify and hold TOWN harmless from any and all claims, damages, losses and expenses, including but not limited to reasonable attorney fees, arising out of third party claims, but only if and to the extent caused directly and proximately by the willful misconduct or the negligent acts or omissions of CONTRACTOR or its employees, agents, representatives, consultants, or its subcontractors with respect to the performance of the Contractor Services under this Agreement.

8. LIMITATION ON LIABILITY. Notwithstanding anything contained in this agreement to the contrary, (i) in no event shall CONTRACTOR be liable to TOWN for any special, indirect, incidental, punitive or consequential damages (including lost profits) even if advised of the possibility of such damages, and (ii) CONTRACTOR's total cumulative liability will be limited to the sum of the fees and compensation actually received by CONTRACTOR pursuant to this agreement during the twelve (12) months immediately preceding the event giving rise to the liability. The foregoing limitations apply to all liabilities and damages in any way arising out of this agreement, or CONTRACTOR's performance or nonperformance thereunder, whether based on breach of contract, warranty, tort, product liability, strict liability, or any other theory of liability. In connection with any purchase, licensing, or sale of products, contractor disclaims all express and implied warranties, including, but not limited to, the implied warranties of title, merchantability and fitness for a particular purpose. This section 8 shall survive the expiration or termination of this agreement.

9. **INSURANCE.** CONTRACTOR shall procure and maintain for the duration of the AGREEMENT, the following insurance coverage:

- 1) Workers' Compensation Insurance in compliance with the applicable state and federal laws
- 2) General Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 3) Coverage for business interruption, destruction of data processing equipment and media, liabilities affecting accounts receivable, and valuable documents in an amount no less than \$100,000 aggregate;
- 4) Liability coverage for all vehicles whether owned, hired or used in the amount of \$500,000; and

For all coverages: each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to TOWN.

Contractor shall furnish TOWN with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by TOWN before work commences. TOWN reserves the right to require complete, certified copies of all required insurance policies at any time.

10. **CONFIDENTIALITY AND NON-SOLICITATION.**

10.01 Agreement Content. The terms and conditions of this AGREEMENT are confidential and neither party shall release any of the terms hereof to any third party without the prior written consent of the other party, except to the extent necessary to comply with law, the valid order of a court of competent jurisdiction, or the valid order or requirement of a governmental agency. Notwithstanding the foregoing, either party may, without the prior written consent of the other party, disclose the existence of a contractual relationship between the parties.

10.02 Intellectual Property. TOWN agrees that the equipment, computer hardware and software, billing and collection processing, and other related systems and equipment are the property and trade secrets of CONTRACTOR, and that TOWN will not release any information regarding such trade secrets to any third party without the prior written consent of CONTRACTOR. TOWN further agrees that, in connection with the use of certain data entry devices, TOWN may gain access to the intellectual property of third parties. TOWN understands and agrees that it may be required to enter into agreements with respect to such intellectual property in order to use such equipment. TOWN agrees to enter into such arrangements at CONTRACTOR's request.

10.03 Non-Solicitation. For the term of this Agreement and for one (1) year after its termination, TOWN shall not employ or hire any employee or former employee of CONTRACTOR who, pursuant to this Agreement, has had any contact with employees

or representatives of TOWN or has worked on TOWN's accounts, without the prior written consent of CONTRACTOR.

11. ACCESS TO DOCUMENTS. The parties agree that during and after the term of this Agreement, each party shall have access to any and all documents, records, disks, and electronic data produced in the performance of this AGREEMENT and in the possession of the other party, as necessary to defend such party in litigation or to respond to investigations initiated by third parties, or for other legitimate business reasons.

12. ATTACHMENTS. The following named attachments are made an integral part of this AGREEMENT:

(a) Scope of Services (Exhibit A attached hereto and made a part hereof);

(b) Web Hosting Agreement (Exhibit B attached hereto and made a part hereof);

(c) Business Associate Agreement (Exhibit C attached hereto and made a part hereof).

13. TERMINATION.

13.01 Events Triggering Termination. This Agreement shall be subject to termination under the following conditions.

(a) Either TOWN or CONTRACTOR may terminate this Agreement without cause upon six (6) months prior written notice to the other party.

(b) If CONTRACTOR fails to materially perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from TOWN specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.

(c) If TOWN fails to materially perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from CONTRACTOR specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.

(d) Unless otherwise agreed upon by the parties, if TOWN or CONTRACTOR shall apply for or consent to the appointment of a petition in bankruptcy, make a general assignment for the benefit of creditors, file a petition or answer seeking reorganization or arrangement with creditors, or take advantage of any insolvency, or if any order, judgment, or decree shall be entered by any court of competent jurisdiction on the application of a creditor or otherwise adjudicating either Party bankrupt or approving a petition seeking reorganization of either Party or appointment of a receiver, trustee or liquidator of either Party or all or a substantial part of its assets, this Agreement shall terminate automatically and immediately.

13.02 Rights Upon Termination. If this Agreement is terminated for any reason, including, without limitation, the breach of this Agreement by any Party, CONTRACTOR

shall be entitled to recover when due and payable hereunder, all amounts owed to CONTRACTOR hereunder accrued but unpaid as of the date of termination. Following termination of this Agreement, for a period of ninety (90) days, CONTRACTOR, at its sole discretion and upon written notice to TOWN of its election to do so, may continue its billing and collection efforts as to those accounts referred to CONTRACTOR prior to the effective date of termination, subject to the terms and conditions of this Agreement, for the fee set forth in Section 4.01 above. At the end of the foregoing period, CONTRACTOR shall return all records to TOWN in the format requested by TOWN, including CD, DVD, external hard drive, etc. and shall cooperate in the transition of the billing and collection services; provided, however, that CONTRACTOR may keep any copies of records in accordance with applicable law. For cases of default, the CONTRACTOR shall be given opportunity to cure the default within the allotted period following such written notice. In the event the acts constituting default are a violation of law, CONTRACTOR shall be subject to immediate termination of Agreement. The expiration or termination of this Agreement, for whatever reason, will not discharge or relieve either party from any obligation which accrued prior to such expiration or termination, will not relieve either party that has breached this Agreement from liability for damages resulting from such breach and will not destroy or diminish the binding force and effect of any of the provisions of this Agreement that expressly, or by reasonable implication, come into or continue in effect on or after expiration or termination hereof.

14. UNCONTROLLABLE FORCES. Except for TOWN's obligation to pay, when due, the fees and compensation owed to CONTRACTOR, neither TOWN nor CONTRACTOR shall be considered to be in default of this AGREEMENT if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this AGREEMENT and which is beyond the reasonable control of the non-performing party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism and governmental actions.

Neither party shall, however, be excused from performance if non-performance is due to forces that are preventable, removable, or remediable nor which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this AGREEMENT.

15. JURISDICTION, VENUE and ARBITRATION. *All claims, disputes or controversies arising out of, in connection with or in relation to this AGREEMENT shall be decided by arbitration in accordance with the Commercial Rules of the American Arbitration Association then in force. For claims, disputes or controversies which either Party may have in excess of \$1,000,000, exclusive of claims for interest, attorneys fees and costs, three (3) neutral arbitrators shall be used unless the parties agree to a single arbitrator. For disputes less than this amount, a single arbitrator shall be used. For purposes of determining the number of arbitrators, the parties' claims and counterclaims shall not be additive. The arbitration shall be conducted in Broward County, Florida. The decision of the arbitrator(s) shall be final, binding and enforceable in any court of*

competent jurisdiction and the parties agree that there shall be no appeal from the arbitrator(s)' decision except as provided by applicable law. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding. The parties shall have the right to conduct discovery as provided by law. The right to arbitrate shall survive the termination of this AGREEMENT. The parties acknowledge and agree that this Agreement includes activities in Interstate Commerce and that the Federal Arbitration Act, 9 USC §1 et seq shall control and apply to all arbitrations conducted hereunder, notwithstanding any state law provisions to the contrary.

The parties irrevocably agree to be joined as parties in any arbitration proceeding which involves claims, disputes or controversies which either party may have with other parties not a party to this AGREEMENT who are also governed by an arbitration agreement.

The parties hereby irrevocably waive any objection to the joinder of other parties who are not parties to this AGREEMENT to any arbitration proceeding commenced pursuant to another agreement where such other parties are also governed by an arbitration agreement.

All questions pertaining to the validity and interpretations of this AGREEMENT shall be determined in accordance with the laws of Florida. Subject to the foregoing arbitration provisions, any legal action by either party against the other concerning this AGREEMENT shall be filed in Broward County, which shall be deemed proper jurisdiction and venue for the action.

16. REPRESENTATIONS. TOWN and CONTRACTOR agree that this AGREEMENT constitutes a legal, valid and binding obligation for each party, enforceable against such party in accordance with its terms (subject always to applicable bankruptcy, insolvency, receivership and other similar laws relating to or affecting the enforcement of creditor's rights generally and to general principles of equity). Further, CONTRACTOR and TOWN warrant and represent to each other:

that each (i) is duly formed and organized and validly existing under the laws of the jurisdiction of its formation, (ii) is properly qualified to do business and is in good standing under the laws of each jurisdiction in which it does business, (iii) has all necessary corporate or similar power and authority to execute and deliver this Addendum and to consummate the transaction contemplated hereby; and

that this AGREEMENT, its execution and the fulfillment and compliance with the terms and conditions hereof, do not violate or conflict with any provision of or result in any breach of or default under any (i) organizational documents of each party, (ii) law or judicial, award, or similar decree, or (iii) agreement, to which TOWN or CONTRACTOR, for CONTRACTOR's

representations and warranties, or TOWN, for TOWN's representations and warranties, are bound.

17. EXPORT LAWS. *TOWN shall comply with all then current export laws and regulations of the U.S. Government and the government of the country in which TOWN receives delivery of the Licensed Software which pertain to the Licensed Software.*

18. ASSIGNMENT OF AGREEMENT. Except to a parent, subsidiary, or affiliate, CONTRACTOR shall not sell, transfer, assign this AGREEMENT, or of its right, title or interest therein, without [the](#) express prior written consent [of](#) TOWN.

19. NOTICES. *Any notice given or required to be given under this [Agreement](#) shall be in writing and shall be addressed to the [parties](#) hereto at the addresses set out below. Any such notices shall be deemed to have been given (i) if mailed, then three (3) [days](#) following the date such notice is placed in the United States mail in a postage paid wrapper, registered or certified with return receipt requested, addressed to the appropriate [party](#) at the address set forth above for such Party, or to the last address provided in writing to the other [party](#) by the addressee, or (ii) if by any other method, when actually received. Either [party](#) may change its address for the purpose of this [Agreement](#) by notice in writing to the other [party](#) in accordance herewith.*

To TOWN:

Town of Davie
ATTN: Judy Paul, [Town](#) Mayor
6591 Orange Drive
Davie, Florida 33314

To the **CONTRACTOR**:

Brad Williams
Vice President, Finance
Advanced Data Processing, Inc.
6451 North Federal Highway, Suite 1002
Fort Lauderdale, Florida 33308

20. SEVERABILITY. Should any part, term or provision of this AGREEMENT be by the courts decided to be illegal or in conflict with any [applicable](#) law, the validity of the remaining portions or provisions shall not be affected thereby.

21. ENTIRE AGREEMENT. This AGREEMENT contains the entire agreement between the parties. CONTRACTOR represents that in entering into this AGREEMENT it has not relied on any previous oral and/or implied representations, inducements or understandings of any kind or nature. [This Agreement may be amended only in writing signed by the parties.](#)

22. ATTORNEYS FEES. Should either party institute any action or procedure to enforce this Agreement or any provision hereof, or for damages by reason of any alleged breach of this Agreement or of any provision hereof, or for a declaration of rights hereunder (including, without limitation, arbitration), the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with such action or proceeding.

IN WITNESS OF THE FOREGOING, TOWN has caused this AGREEMENT to be signed by its TOWN Administrator, attested by TOWN Clerk with the corporate seal of the TOWN, and CONTRACTOR has executed this Agreement effective as of the date set forth above.

ATTEST:

By: _____

Gary Shimun, [Town Administrator](#)

By: _____
Judy Paul, [Town](#) Mayor

By: _____

Russell Muniz, Town Clerk

Date: _____

CONTRACTOR
Advanced Data Processing,
Inc.
A Delaware Corporation

(CORPORATE SEAL)

DOUG SHAMON,
PRESIDENT

STATE OF FLORIDA
BROWARD COUNTY

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared **Doug Shamon, as President of Advanced Data Processing, Inc.**, a Delaware corporation, and acknowledged execution of the foregoing **AGREEMENT** for the use and purposes mentioned in it and that the instrument is the act and deed of the **Contractor**.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at _____ in the State and County aforesaid on _____, [2009](#).

Notary Public, State of Florida

My Commission expires:

Exhibit A

Scope of Services

Base Services and Obligations:

A. **CONTRACTOR** shall provide complete medical billing and accounts receivable management services for TOWN as described below. CONTRACTOR shall:

1. Prepare and submit all initial claims and bills for TOWN promptly upon receipt thereof, and prepare and submit all secondary claims and bills promptly after identification of the need to submit a secondary claim.
2. Assist TOWN in identifying all necessary documentation in order to process and bill the accounts.
3. Direct all payments to a lockbox or bank account designated by TOWN, to which TOWN alone will have signature authority.
4. Pursue appeals of denials, partial denials and rejections when deemed appropriate by CONTRACTOR.
5. Respond to and follow up with all Payors and respond to all messages or inquiries from a Payor.
6. Provide appropriate storage and data back-up for all records pertaining to TOWN's bills and collections hereunder, accessible to TOWN at all reasonable times.
7. Maintain records of all services performed and all financial transactions.
8. Meet, as needed, with representatives of TOWN to discuss results, problems and recommendations.

9. Provide any TOWN-designated collection agency with the data necessary for collection services to be performed when an account is referred to such agency.

10. Ensure that all required documentation and agreements with Payors (e.g. Medicare, Medicaid, Champus, etc.) are filed and maintained and that TOWN is kept apprised of important changes to industry regulations.

11. Provide reasonably necessary training periodically, as requested by TOWN, to TOWN's emergency medical personnel regarding the gathering of the necessary information and proper completion of run tickets.

12. Utilize up-to-date knowledge and information with regard to coding requirements and standards, to compliance with applicable federal, state and local regulations.

13. Reconcile the number of transports processed with those received

14. Provide a designated liaison for patient and other Payor concerns.

15. Provide a toll free telephone number for patients and other Payors to be answered as designated by TOWN.

16. Facilitate proper security of confidential information and proper shredding of all disposed materials containing such information.

17. Establish arrangements with hospitals to obtain/verify patient insurance and contact information.

18. Respond to any TOWN or Payor inquiry or questions promptly

19. Maintain appropriate accounting procedures for reconciling all deposits, receivables, billings, patient accounts, adjustments and refunds.

20. Provide access to TOWN for all requested information in order for TOWN to perform appropriate and periodic audits. Reasonable notice will be given to CONTRACTOR for any planned audit and will be conducted during normal business hours of CONTRACTOR

21. Provide timely comprehensive reports in a mutually agreed upon format facilitating all required aspects of monitoring, evaluating, auditing and managing the services provided.

22. Process refund requests and provide TOWN with documentation substantiating each refund requested.

B. Specific Scope Compliance:

1. Assign billing patient numbers providing cross-reference to TOWN'S assigned transport numbers.

2. Maintain responsibility for obtaining missing or incomplete insurance information.

3. Provide accurate coding of medical claims based on information provided by TOWN.

4. Make recommendations for fee schedule changes and regularly advise TOWN on changes in statutes and industry regulations.

5. Negotiate and arrange modified payment schedules for individuals unable to pay full amount when billed.

6. Retain all accounts for a minimum of twelve (12) months (unless otherwise specified by mutual agreement) and after (12) months turn over accounts for which no collection has been made (unless insurance payment is pending) to an agency designated by TOWN. IF APPLICABLE: Notwithstanding the foregoing, no account shall be turned over for collection without TOWN's consent.

7. Provide for facilities to permit real-time read only electronic look-up access by TOWN to CONTRACTOR'S system to obtain patient data and billing information.

8. Maintain records in an electronic format that is readily accessible by TOWN personnel and that meets all federal and state requirements for maintaining patient medical records.

9. Maintain daily deposit control sheets and original documentation

10. Create, implement and comply with a Compliance Plan consistent with the Compliance Program Guidance for Third Party Medical Billing Companies 63 FR 70138; (December 18, 1998) promulgated by the Office of Inspector General of the Department of Health and Human Services (OIG).

11. Provide TripTix based reporting extract of data required by state or local regulatory authorities connectivity/interface in a format reasonably required by the such authorities.

C. Additional Services:

The CONTRACTOR will provide the following specific Additional services:

Provide HIPAA Privacy Notice to transported, billed patients as an insert into the initial billing notice mailed to these patients.

D. TOWN's Responsibilities and Obligations:

1. From each patient TOWN who receives EMS from TOWN ("Patient"), TOWN shall use its best efforts to obtain and forward the following information ("Information") to CONTRACTOR:

- The Patient's full name and date of birth
- The mailing address (including Zip Code) and telephone number of the Patient or other party responsible for payment ("Guarantor")
- The Patient's social security number
- The name and address of the Patient's health insurance carrier, name of policyholder or primary covered party, and any applicable group and ID numbers
- The auto insurance carrier's address and/or agent's name and phone number if an automobile is involved
- The employer's name, address and Workers Compensation Insurance information if the incident is work related
- The Patient's Medicare or Medicaid HIC numbers if applicable
- The Patient's or other responsible party's signed payment authorization and release of medical authorization form or other documentation sufficient to comply with applicable signature requirements
- The call times, transporting unit, and crew members with their license level, i.e. EMT-B, EMT-I, or EMT-P
- Odometer readings such that loaded miles may be calculated.
- Any other information that CONTRACTOR may reasonably require to bill the Patient or other Payor.

2. TOWN warrants that all information provided to CONTRACTOR shall be accurate and complete, to the best of its knowledge. CONTRACTOR shall have no obligation to verify the accuracy of such information, and TOWN shall be solely responsible for such accuracy. TOWN agrees to indemnify CONTRACTOR, its agents, and employees from any and all liabilities and costs, including reasonable attorneys' fees, resulting from (a) any inaccurate or misleading information provided to CONTRACTOR that results in the actual or alleged submission of a false or fraudulent claim or (b) any other actual or alleged violation of local, state or federal laws, including but not limited laws applicable to Medicare, Medicaid or any other public or private Payor or enforcement agency.

3. TOWN will provide CONTRACTOR with necessary documents required by third parties to allow for the electronic filing of claims by CONTRACTOR on TOWN's behalf.
4. TOWN will provide CONTRACTOR with its approved billing policies and procedures, including fee schedules and collection protocols. TOWN will be responsible for engaging any third party collection service for uncollectible accounts after CONTRACTOR has exhausted its collection efforts.
5. TOWN will timely process refunds identified by CONTRACTOR for account overpayments.
6. TOWN will provide a Lock Box or bank account address to CONTRACTOR and will instruct the Lock Box or bank custodian agency to forward all documents to CONTRACTOR for processing.
7. TOWN will provide CONTRACTOR with Daily Bank Balance Reporting capabilities via the bank's designated web site.
8. TOWN will cooperate with CONTRACTOR in all matters to ensure proper compliance with laws and regulations.
9. TOWN will assure that all of its personnel involved in the delivery of EMS hold the licensure or certification required to perform such services, and are not excluded persons listed on the OIG exclusion list.

Exhibit B

Web Hosting Agreement

1. License. CONTRACTOR grants to TOWN a limited, non-exclusive and non-transferable license: (i) to access and use the CONTRACTOR'S proprietary IMX billing system software (the "Software") in executable code format via Internet connection to CONTRACTOR's hosting facility solely in support of the billing and collection with respect to the TOWN's EMS services; and (ii) to use any associated end-user documentation provided by CONTRACTOR (the "Documentation") in support of TOWN's authorized use of the Software. Except as expressly permitted herein, no express or implied license is granted to TOWN to use, receive, reproduce, copy, market, sell, distribute, license, sublicense, lease, timeshare, or rent the Software or any component thereof. No modification of, or preparation of derivative works based on the Software or Documentation is permitted. TOWN shall not disassemble, decompile, decrypt or reverse engineer the Software or in any way attempt to discover or reproduce source code for the Software, or any portion thereof. TOWN shall not develop or license any third party programs, applications, tools or other products which interface or interact with the Software without the prior written consent of CONTRACTOR. TOWN agrees not to remove the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Software. The Software may incorporate software under license from a third party. If the third party requires TOWN's notification of such use through an End User License Agreement ("EULA"), CONTRACTOR will provide such notification to TOWN. In order to use the Software, TOWN agrees to be bound by all EULA(s) provided at the time of delivery whether by hardcopy or displayed upon installation or use of the Software. TOWN's use of the Software subsequent to such notice(s) shall constitute TOWN's acceptance of the EULA(s).

2. Hosting of Application. CONTRACTOR shall establish and maintain a production version of the Software for TOWN's use, including any necessary physical links to the Internet via an Internet service provider or through a direct Internet connection. The Software shall reside on a server or cluster of servers which are physically located at CONTRACTOR's place of business or at a third-party site. The Software may reside on a server used for the applications of other CONTRACTOR customers. As of the date of this Agreement, the Software resides at a cluster of servers that are physically located in highly secure high-tech data centers in Austin, Texas and Houston, Texas.

3. Application Maintenance. CONTRACTOR shall maintain the Software so that it is available for access by TOWN. CONTRACTOR shall implement commercially reasonable procedures regarding application management, load balancing, back-up, recovery, file and disk space utilization management, and data security to ensure that the most recent version of the Software resides on the server or may be reinstalled without undue delay. The Software shall be capable of continuous operation 99.9% of the time, other than for interruptions due to service maintenance and upgrades, system failure, system back-up and recovery and for causes beyond CONTRACTOR's reasonable control. CONTRACTOR will ensure the availability of qualified engineers around the clock, ready to intervene should the need arise 365 days per year and 24 hours a day.

4. Internet Access. TOWN shall be responsible for providing its own Internet access, and in no event shall TOWN be provided with direct access (by modem or otherwise) to the Software server, other than access that is available to third parties generally through the Internet. The parties acknowledge that, since the Internet is neither owned nor controlled by any one entity, CONTRACTOR makes no guarantee that any given user will be able to access the Software at any given time. There are no assurances that access will be available at all times and uninterrupted, and CONTRACTOR shall not be liable to TOWN for its inability to access the Software.

5. Limitation of Access to Software. TOWN's right to access and use the Software will vary depending upon the scope of the Contractor Services being provided by CONTRACTOR. By way of example, if CONTRACTOR is responsible for inputting TOWN's data, TOWN's access to the Software will not include the ability to input, delete, or otherwise change such data. Moreover, access to data shall be limited to the employees, representatives and agents of CONTRACTOR and the authorized personnel of TOWN. A complete and signed access form for each of TOWN's personnel authorized to access the Software must be submitted to and approved by CONTRACTOR.

6. Statistical Reporting. Statistical and financial data reports will be available on the Software at all times that the Software is available. The format and content of the statistical data will be established and defined by CONTRACTOR and such reports may be added, modified or deleted without notice to TOWN. Notwithstanding the foregoing, TOWN may request that specific, custom reports be made available to it at an additional charge to be negotiated between CONTRACTOR and TOWN.

7. Acknowledgement with Respect to Reports. With respect to each report generated by the Software, TOWN acknowledges and agrees:

(a) Such report represents a “snapshot” of a moment in time, and, as such, the snapshot may not be accurate with respect to financial results on the whole.

(b) The underlying data may be subject to correction from time-to-time, which may change the results of the report or its interpretation.

(c) The data represented in the report constitutes only a limited portion of all data available regarding TOWN's business. Accordingly, any particular report may not accurately represent the TOWN's then-current or future financial condition.

8. Security. TOWN acknowledges that it is solely responsible for providing security software, including without limitation, firewalls and similar applications, to prevent unauthorized access to its computer systems. CONTRACTOR shall use commercially reasonable efforts to maintain the security of the Software, but shall not be responsible for the TOWN's loss or dissemination of passwords or other breaches beyond CONTRACTOR's reasonable control.

9. Data protection. *CONTRACTOR addresses customer privacy issues very seriously. CONTRACTOR agrees that it will not use or make available any personally identifiable information other than administering the client's account and collecting usage statistics in order to improve CONTRACTOR's products and service specifications. During the term of this Agreement and after termination or expiration of this Agreement, CONTRACTOR will not in any way transfer to any third party or use in direct or indirect competition with TOWN any information or data posted by or for the benefit of TOWN on CONTRACTOR's website and acknowledges that all such information is confidential ("Confidential Information"). Confidential Information includes, but is not limited to, the terms and conditions of this Agreement, technical information, price lists, data and business plans. Confidential Information is the exclusive property of the disclosing party and may be used by the receiving party solely in the performance of its obligations under this Agreement. CONTRACTOR acknowledges that its handling of information on behalf of client is or may be subject to federal, state or local laws, rules, regulation and restrictions regarding the privacy of consumer information. CONTRACTOR agrees to comply with all of such laws, rules, regulations and restrictions at its sole cost and expense. This Confidential Information section and all obligations*

contained therein will survive any termination or expiration of this Agreement.

10. Service disruption caused by customer actions. *Although through there are limitations on the manipulation of critical server configuration files, server settings, etc., a customer is allowed, CONTRACTOR shall not be liable for service outages caused by direct customer actions.*

11. Supplemental Indemnification

- (a) TOWN shall indemnify, hold harmless and, at CONTRACTOR request, defend CONTRACTOR, and its directors, officers, and employees, from and against any liabilities, claims, actions, damages, losses, costs and expenses (including court costs and reasonable fees of attorneys), brought by third parties against CONTRACTOR arising out of or resulting from TOWN's infringement of such third party's (a) intellectual property rights, or (b) rights as a potential employee of TOWN, including applicants or candidates for employment by TOWN.
- (b) CONTRACTOR shall indemnify, hold harmless and, at TOWN's request and upon CONTRACTOR's written agreement, defend TOWN, and its directors, officers, and employees, from and against any liabilities, claims, actions, damages, losses, costs and expenses (including court costs and reasonable fees of attorneys), brought by third parties against TOWN arising out of or resulting from CONTRACTOR's infringement of such third party's intellectual property rights.
- (c) CONTRACTOR's solutions are designed and hosted with the utmost consideration for data privacy concerns, adhering to federal and state guidelines and industry best practices, providing audit trails and notifications of all system transactions. CONTRACTOR maintains adequate professional liability insurance and will provide TOWN with a Certificate of Insurance for such. In no event shall Licensor or its licensors or suppliers pay for incidental, indirect, special, or consequential damages, even if they have been advised of or should have foreseen, the possibility of such damages beyond the values as maintained in the professional liability insurance.
- (d) *Both parties shall promptly notify each other in writing. Either party may, at its sole discretion and expense, participate in the defense of any claim or action and any negotiations for settlement. No settlement which may adversely affect either party's rights or obligations shall be made without either party's prior written approval*

Exhibit C
Business Associate Addendum
CONTRACTOR the "Business Associate" and TOWN hereby add the
following additional language to the AGREEMENT.

1. CONTRACTOR shall carry out its obligations under this Addendum in compliance with the privacy regulations pursuant to Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended ("HIPAA"), to protect the privacy of any personally identifiable protected health information ("PHI") that is collected, processed or learned as a result of the Billing Services provided hereunder. In conformity therewith, CONTRACTOR agrees that it will:
 - a. Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains or transmits on behalf of TOWN;
 - b. Not use or further disclose PHI except as permitted under this Addendum or required by law;
 - c. Use appropriate safeguards to prevent use or disclosure of PHI except as permitted by this Addendum;
 - d. To mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of PHI by CONTRACTOR in violation of this Addendum.
 - e. Report to TOWN any use or disclosure of PHI not provided for by this Addendum of which CONTRACTOR becomes aware;
 - f. Ensure that any agents or subcontractors to whom CONTRACTOR provides PHI, or who have access to PHI, agree to the same restrictions and conditions that apply to CONTRACTOR with respect to such PHI;
 - g. Make PHI available to TOWN and to the individual who has a right of access as required under HIPAA within 30 days of the request by TOWN regarding the individual;

- h. Incorporate any amendments to PHI when notified to do so by TOWN;
 - i. Provide an accounting of all uses or disclosures of PHI made by CONTRACTOR as required under the HIPAA privacy rule within sixty (60) days;
 - j. Make their internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services for purposes of determining CONTRACTOR's and TOWN's compliance with HIPAA; and
 - k. At the termination of the AGREEMENT, return or destroy all PHI received from, or created or received by CONTRACTOR on behalf of TOWN, and if return is not feasible, the protections of this Addendum will extend to such PHI.
2. The specific uses and disclosures of PHI that may be made by CONTRACTOR on behalf of TOWN include:
- a. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by TOWN to its patients;
 - b. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
 - c. The submission of supporting documentation to carriers, insurers and other payers to substantiate the health care services provided by TOWN to its patients or to appeal denials of payment for same.
 - d. Uses required for the proper management of CONTRACTOR as business associate.
 - e. Other uses or disclosures of PHI as permitted by the HIPAA privacy rule.
3. Notwithstanding any other provisions of this AGREEMENT or Addendum, the AGREEMENT may be terminated by TOWN if CONTRACTOR has violated a term or provision of this Addendum pertaining to CONTRACTOR's material obligations under the HIPAA privacy rule, or if CONTRACTOR engages in conduct which would, if committed by TOWN, result in a violation of the HIPAA privacy rule by TOWN.